

REMARKS

Reconsideration and allowance of this application are respectfully requested.

The specification previously was amended to correct the claim of priority (see Preliminary Amendment dated November 3, 2005). As set forth in the application as originally filed, the present application claimed priority to U.S. provisional application serial number 60/174,646, filed January 5, 2000. However, the present application has a filing date of April 10, 2001, which is more than one year from the filing of the provisional application. Thus, the original claim of priority is improper. A Preliminary Amendment (dated November 3, 2005), along with an executed declaration that accompanied that Preliminary Amendment, sought to correct the claim of priority by claiming priority to co-pending U.S. patent application serial number 09/635,330, filed August 9, 2000, which in turn claims priority to the same provisional application. Since the delay between the time period in which the benefit claim had to be made under the rules and the submission of the Preliminary Amendment on November 3, 2005 was unintentional, which is also specifically set forth in a Petition to Accept an Unintentionally Delayed Benefit Claim accompanying herewith (surcharge under 37 CFR 1.17(t) paid herewith), it is submitted that the present application is entitled to a claim of priority to co-pending U.S. patent application serial number 09/635,330, filed August 9, 2000.

The abstract of the disclosure was objected to because of length. The abstract has been amended as set forth above. It is requested that the objection to the abstract be withdrawn.

The disclosure was objected to because of various informalities. As set forth above, paragraph [0099] has been amended to delete “(” prior to “and possibly” and paragraphs [0109], [0111] thru [0120] and [0122] have been amended to correct the references to Figure 15 of the

drawings. It is submitted that no new matter has been submitted. It is requested that the objection to the disclosure be withdrawn.

Claims 1-10, 12-17, 20 and 24-28 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 7,120,608 to Gallagher, et al. ("Gallagher"), in view of U.S. Patent 6,039,250 to Ito et al. ("Ito"). Claims 11, 18, 19, 21-23, 29 and 30 were rejected under 35 U.S.C. 103(a) as being unpatentable over Gallagher in view of Ito and in further view of U.S. Publ. No. US2002/0029193 to Ranjan and Shah ("Ranjan").

It is submitted that neither Gallagher nor Ranjan is valid prior art with respect to the present application. First, it is noted that the present application has a filing date of April 10, 2001. Gallagher, which issued on October 10, 2007, is not prior art under either 102(a) or 102(b) and therefore can only be prior art only under 102(e) based on either its filing date of October 30, 2000, or its priority filing date of August 15, 2000. Similarly, Ranjan, which issued on March 7, 2002 from an application filed on August 31, 2001, can only be prior art only under 102(e) based on its priority filing date of September 1, 2000. In view of the foregoing discussion and the accompanying Petition to Accept an Unintentionally Delayed Benefit Claim, it is submitted that the present application is entitled to claim priority to U.S. patent application serial number 09/635,330, filed August 9, 2000, as well as to U.S. provisional application serial number 60/174,646, filed January 5, 2000. Accordingly, since the priority filing date of each of the claims of the present application is earlier than the earliest priority filing dates of either Gallagher or Ranjan, neither of these references is valid prior art with respect to the present application.

In view of the foregoing, and since neither Gallagher nor Ranjan can be cited in a rejection of the claims of the present application, it is requested that the rejection of the claims under 35 U.S.C. 103(a) be withdrawn.

In view of the foregoing amendments and remarks, reconsideration and allowance of this application are respectfully submitted.

If any fee is due in connection with this submission, the Commissioner is authorized to charge such fee to Deposit Account No. 03-3415.

Respectfully submitted,

By: 

Mark Montague
Reg. No. 36,612

COWAN, LIEBOWITZ & LATMAN, P.C
1133 Avenue of the Americas
New York, New York 10036-6799
(212) 790-9200